

**REMARKS**

The Office Action mailed July 25, 2008 (hereinafter, "Office Action") has been reviewed and the Examiner's comments considered. Claims 1-55 are pending in this application. Claims 17-33 and 48-55 are withdrawn from further consideration. No amendments are made herein.

**Claim Rejections - 35 U.S.C. § 103**

Claims 1-16 and 34-47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPN 5,810,789 to Powers et al. (hereinafter, "Powers"). Applicants respectfully traverse this rejection.

The Office Action alleges that Powers shows a boot (20) in FIG. 1, and a bifurcation assembly (56) in FIGS. 5-6, and concludes that it would have been obvious to modify the alleged boot with the alleged bifurcation assembly to arrive at the claimed invention.

Initially, Applicants note that the alleged Powers boot is instead described by Powers as a "bifurcation hub 20 by which each of access tubes 18 is placed in fluid communication with the corresponding of the lumens in catheter 16." Powers, col. 1, ll. 44-46. Typically, as shown in Powers FIG. 1, a bifurcation hub is attached directly to a catheter and does not include a longitudinally extending lumen sized to receive a catheter. Also, the alleged Powers bifurcation assembly is instead described by Powers as "an outlet stem 56 that projects outwardly from the body of access port 50 and includes a pair of parallel open-ended outlet prongs 58, 59." Powers, col. 3, ll. 51-53.

Each of independent claims 1 and 34 recite, *inter alia*, a bifurcation assembly, comprising at least one extension leg extending from a proximal end thereof." It is unmistakable that the alleged bifurcation assembly does not include at least one extension leg. The Office Action appears to address this fact by stating that "having at least one extension leg extending from an end of the apparatus and one stem extending from the other end, would have been considered obvious in view of the proven conventionality of this particular bifurcation design." Office Action, p. 3. However, Applicants submit that modification of an access port to include an extension leg is certainly not obvious and would completely alter the purpose of the access

port as one of ordinary skill in the art would appreciate. In any event, even assuming *arguendo* that this line of reasoning could be maintained, Powers clearly does not show or describe numerous features recited in the rejected independent and dependent claims, most of which are not even identified in the Office Action.

For instance, independent claim 1 recites the feature of a boot having an outer wall enclosing a longitudinally extending lumen, wherein the boot lumen is sized to prevent axial movement of said catheter when said catheter is positioned therein. There is no showing or description in Powers of such a feature, nor is this particular feature identified in the Office Action as being shown by Powers. Independent claim 34 recites the feature of a boot having a first connector positioned at a proximal end thereof. There is also no showing or description in Powers of this feature, nor any identification in the Office Action where, in Powers, it is alleged to be shown. Moreover, the features of the dependent claims are not identified by the Office Action as being shown by Powers.

Accordingly, Powers does not establish a *prima facie* case of obviousness at least because not all of the claimed limitations are taught or suggested by the cited art. (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Therefore, claims 1-16 and 34-47 are patentable over Powers for at least this reason.

In the event that the Office maintains the rejections of claims 1-16 and 34-47 under 35 U.S.C. § 103, Applicants respectfully request that the Office, in the interest of compact prosecution, identify on the record and with specificity sufficient to support a *prima facie* case of obviousness, where in Powers each of the features recited in the independent and dependent claims can be found.

### **Conclusion**

Each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

It is noted that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between the cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein should not be construed to prejudice or foreclose future consideration by Applicants of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner and/or the merits of additional or alternative arguments.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **50-2191** referencing docket no. 1016720011P. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 16, 2009

Respectfully submitted,

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